

**DUI Courts: The Need for Standardized DUI Court Evaluations**

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## DUI COURTS

### **Abstract**

There have been numerous evaluations of driving under the influence (DUI<sup>1</sup>) treatment courts. The evaluation process and tools vary widely. This research project reviewed seven individual courts' evaluations, including process evaluations and outcome evaluations to determine the strength of each court's evaluation. The research goal was to better understand how these courts are evaluated, the strength of those evaluation processes, and to determine what, if any, changes can and should be made to strengthen them. Presently, there are not any standardized evaluations tools for DUI treatment courts. This research concludes that evaluations should be standardized and such standardization will allow for a stronger evaluation and the ability to uniformly compare courts and court processes.

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<sup>1</sup> There are other acronyms for drunk driving including but not limited to: DUIL - driving under the influence of liquor, OMVI - operating a motor vehicle while intoxicated, OWI - operating while intoxicated and OUI operating under the influence (What's In a Name).

### **DUI Courts: The Need for Standardized DUI Court Evaluations**

#### **Introduction**

Regardless of the name or what it is called, Drunk Driving, Operating While Intoxicated, Driving While Intoxicated, Driving Under the Influence, by any name drunk driving is a serious problem. The headlines are out there: “Man killed, woman seriously injured after drunk driver runs red light” (KHOU). “Drunken driver gets 16 years in prison for killing of good Samaritan” (Schmadeke). A newspaper headline in Wisconsin, “[f]ormer Lutheran bishop sentenced to 10 years for killing woman while driving drunk” (Erickson). According to the National Center for Injury Prevention and Control, 28 people in the United States die in motor vehicle crashes involving drunk drivers every day. This equals more than one death every hour, in addition, the annual cost of alcohol-related crashes is greater than \$44 billion (Impaired Driving).

#### *Harms from Drunk Driving*

Drunk driving harms individuals and communities in many ways. We have listened to the radio, watched TV, read newspapers and online news about drivers, passengers, and pedestrians that have been killed or injured by drunk drivers. Additionally, there is economic damage. This includes lost productivity, workplace issues including missing work for court appearances either as a victim or offender, legal expenses, medical expenses, emergency medical services, increased insurance costs, and property damage (Alcohol Rehab Guide).



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It is easy to empathize with people who have suffered at the hands of drunk drivers. No one wants a family member killed, injured, or even incarcerated in prison for drunk driving. What can we do to reduce drunk drivers? That question led to the development of specialized courts called DUI courts or DWI courts that deal with repeat drunk drivers. DUI courts adapted the successful formula of adult drug courts (Marlowe, Douglas et al). The first DUI court began in 1995 in Doña Ana, New Mexico. There are now over over 700 courts (National Center for DWI Courts).

Evaluations of DUI courts have shown them to be effective. However, evaluations can be improved to make them more effective for individuals and organizations to use. The evaluations need to be more user-friendly, easier to understand and more uniform. Currently, evaluations vary from report to report because they are conducted by different individuals or companies. The literature review below provides a summary of seven DUI court evaluations completed by seven different evaluators, companies or individuals. The evaluations are summarized as to how the courts are organized, research methods used, and the evaluation findings. The discussion section will review their strengths and weaknesses and describe how this information can be applied to future evaluations to make them more effective.

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### Literature Review

#### DUI Court Standards & Guidelines

##### *Definitions*

A review of DUI court evaluations, guidelines, individual programs and the content of the programs indicate that clear definitions are needed for key terms. The most important word that needs clarification is “recidivism,” as that word is used many times to describe if a program is successful or unsuccessful. A general meaning of recidivism as defined by the National Institute of Justice is: “It refers to a person's relapse into criminal behavior, often after the person receives sanctions or undergoes intervention for a previous crime. Recidivism is measured by criminal acts that resulted in rearrest, reconviction or return to prison with or without a new sentence during a three-year period following the prisoner's release” (“Recidivism”). However, DUI court evaluations frequently define recidivism differently.

The other two words that need clarification are “guidelines” and “standards” as they are used with different meanings to describe how DUI courts operate. I will use *The Business Dictionary* definition of guidelines which is a “[r]ecommended practice that allows some discretion or leeway in its interpretation or use” (Business Dictionary). I will use the Business Dictionary definition of “standards” as “[a] limit or rule, approved and monitored for compliance by an authoritative agency or professional agency...as a minimum acceptable benchmark” and “standards can be enforced by government or a regulatory agency to their specifications.” (Business Dictionary) If one of these words is used with a different meaning I will specify the difference.

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### *National Standards and Guidelines*

Research failed to identify any national standards for DUI courts. The word “standard(s)” is used in drunk driving information from national groups or government agencies, but the information provided is not mandatory or monitored for compliance. Therefore, these should be considered guidelines and not standards. If federal money is used by a drug court, the Department of Justice (DOJ) requires drug courts, including DWI/DUI courts that have applied for federal grant funds, to follow the *10 Key Components for Drug Courts* (FY 2016 Competitive Grant Announcement 5).

There are national guidelines for operating DUI courts, but not standards. The National Center for DWI Courts (NCDC), developed *The Ten Guiding Principles of DWI Courts* that contains recommended guidelines for establishing and operating DUI courts (“Ten Guiding Principles”).

The Ten Guiding Principles of DUI Courts are:

1. Determine the Population
2. Perform a Clinical Assessment
3. Development the Treatment Plan
4. Supervise the Offender
5. Forge Agency, Organization, and Community Partnerships
6. Take a Judicial Leadership Role
7. Develop Case Management Strategies
8. Address Transportation Issues
9. Evaluate the Program
10. Ensure a Sustainable Program

DUI courts that follow *The 10 Guiding Principles of DWI Courts* reduce recidivism and are more effective because they follow principles known to work (DWI Court Model Compliance Checklist 1). There are no national organizations or national

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governmental agencies that mandate the use of these guiding principles. However, the National Center for DWI Courts provides training and technical assistance to DWI courts to help them follow their guiding principles. NCDC's *DWI Court Model Compliance Checklist* contains the *Ten Guiding Principles* recommended by the NCDC and allows for DUI courts to determine if they are following procedures based on those principles. They determine if they are following principles by performing a thorough assessment of their DUI court. If there are state mandated standards, they can be added to the checklist to determine if the DWI court is following those standards (DWI Court Model Compliance Checklist).

The National Center for State Courts (NCSC) is a national organization that works with the Conference of Chief Justices, Conference of State Court Administrators and other judicial associations. It provides information ranging from court issues to judicial compensation, consulting services, and conducts research on legal concerns (About Us). NCSC has made the effective use of problem solving courts one of its priorities (Priorities). This includes NCSC helping DUI courts determine if they are ready for an evaluation, whether the DUI court is effective, whether the DUI is working as designed and help to conduct cost-benefit analysis of the DUI court (Program Evaluation).

The Traffic Resource Center for Judges works with the National Highway Traffic Safety Administration (NHTSA) and the National Center for State Courts to act as a resource to improve court decision making involving impaired drivers by providing information regarding when judges should use alcohol monitoring devices in sentences

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and whether judges should use treatment when sentencing these drivers (Sentencing). They also act as a reference source to provide information to the media, the public, and other interested groups regarding impaired driving on subjects such as ignition interlocks, impaired driving campaigns, and field sobriety checkpoints and testing. The Traffic Resource Center for Judges does not set standards or provide guidelines involving impaired driving (TRCJ 2017).

The three organizations, NCDC, TRCJ, and NCSC are all involved in providing information and/or guidance on DUI courts, but they do not set standards for DUI courts.

### *State DUI Court Standards*

Georgia, Nebraska, Minnesota, and Pennsylvania are some of the states that have developed DUI court standards. These state standards vary from detailed to general, but the goal of the standards are to improve the quality of their DUI courts, increase their chances for reducing participants' recidivism, and to improve their chances at receiving grant funding.

Nebraska's problem-solving courts can only be established with the approval of the Nebraska Supreme Court. The Nebraska Supreme Court oversees all of the state's problem-solving courts to ensure that all Nebraska's problem solving courts have the same standards and foundations for success (Nebraska Judicial Branch).

Minnesota Offender Treatment Court standards are the minimum requirements for the approval and operation of all treatment courts in Minnesota. Accompanying each standard are recommended practices that treatment courts are encouraged to follow (Minn. Judicial Council).

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Pennsylvania developed standards for DUI courts beginning in 2011 and revised them in 2015. There is a state accreditation program, but it is not mandatory (Supreme Ct. of Penn).

Finally, Georgia requires their DUI courts adhere to statewide standards and each program is subject to a performance peer review no less than once every three years. These standards were developed from a review of national research findings and best practices and an analysis of practices and procedures used in Georgia accountability courts (Judicial Council of Georgia).

### DUI Court Eligibility Requirements

#### *National Eligibility Requirements*

My research failed to identify national eligibility requirements for DUI courts. However, the federal government has indirectly influenced the use of eligibility requirements by making them a grant funding requirement. For example, Department of Justice (DOJ) grants do not allow funds to be used by DUI courts to serve violent offenders.

#### *State Eligibility Requirements*

Some eligibility requirements are set by the state, but even within a single state the courts themselves often create their own specific requirements. Here are some examples.

Michigan initiated the DWI/Sobriety Court Interlock Pilot Project. The legislation was effective January 1, 2011 and set eligibility requirements for participants for DWI courts. To be eligible for admission into one of those courts, a person must have

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been arrested and convicted of a DWI related offense after January 1, 2011, and have had a total of 2 or more DWI violations in the last 7 years, or 3 or more DWI violations within the past 10 years (Kierkus and Johnson 17).

There are numerous DUI courts in Wisconsin with county or court specific eligibility requirements (the term OWI is used in this state instead of DUI). La Crosse County requires that a participant be convicted of OWI-2nd and be dependent or be suspected dependent, or be convicted of first offense felony OWI and assessed as substance dependent or any OWI-3rd conviction and be referred by a judge to participate (La Crosse 6). Dane County requires an OWI-3rd or higher conviction, or BAC (Blood Alcohol Concentration) .20 or higher, adult (age 18 or older), a finding of alcohol dependency or suspected alcohol dependency, and must be placed on probation with mandatory compliance of OWI Treatment Court as a condition of probation (Dane 5). Taylor County requires the participant to be charged with an OWI-2nd or 3rd, a BAC of .15 or higher or refuses the requested test and not previously convicted of an OWI related death or injury or a violent crime (Criminal Justice Coordinating Council 2017).

### How DUI Court Programs are Designed

The success of DUI Court programs depends on the design of their program, and many courts use *The Ten Guiding Principles of DUI Courts* as their foundation (NCDC 2017). In 1997, the National Association of Drug Court Professionals designated ten defining components of the drug court model in an attempt to describe “The very best practices, designs, and operations of drug courts” (qtd. in Guerin and Watkins 7).

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Similarly, the DUI/Drug Court Advisory Council compared the goals of the DWI and Drug court models to develop a list of guiding principles. These ten components and guiding principles represent the best known conceptualization of the drug and DWI court model and provide standards for DWI-Drug courts nationwide (Guerin and Watkins 7).

The NCDC publication *The Ten Guiding Principles of DWI Courts* discusses these principles in detail. NCDC's *DWI Court Model Compliance Checklist* allows DWI Courts to review their compliance with *The Ten Guiding Principles of DWI Courts*. The first principle, "Determine the Population" is explained by the *DWI Court Model Compliance Checklist* in these terms:

- The DWI Court focuses on those offenders who are assessed by a substance abuse professional as being in significant need of treatment.
- The DWI Court team has established a broad based committee of community stakeholders, which shall, among other things, be consulted as to the types of offenders that should be accepted or excluded from the DWI Court.
- The DWI Court has a clearly stated target population.
- The DWI Court has clearly written admission and exclusion criteria.
- The DWI Court delineates eligibility criteria for program participation on using both offender characteristics and offense characteristics.
- The DWI Court matches the number of participants that are accepted with available resources (1).

### Evaluating Success of a DUI Court Program

A DUI court must be evaluated in order to determine whether that court is successful or not successful, which depends on how "success" is defined. The measures of success can be graduation from a DUI court, lack of recidivism after enrolling, or after



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graduating from a DUI court or the combination of these definitions (Sloan, Chepke, et al. 118).

### *DUI Court Success As Defined by Graduation*

Graduation from a DUI court defines success of participants in several evaluations. The study, *Understanding Success and Nonsuccess in the Drug Court*, defined success as completion (graduation) of a drug court program compared with those who did not graduate (Fulkerson). Even though this study refers to a drug court the definition is applicable to DWI Courts.

Here are some examples. *The LaGrange Times*, a newspaper in LaGrange, Georgia, highlighted the graduation of almost a dozen people who graduated from the Troup County DUI/Drug Court program (LaGrange News). An article in *The Prosecutor*, the magazine of the Texas District and County Attorneys Association, discussed the success of a DUI Court in Brown County, Texas. The article stated that a person is successful if the individual completes the DUI Court program (Nix). A study of the Tulsa County Oklahoma drug and DUI programs that tested the gender differences in treatment defined success as graduation from the programs (Bin).

### *DUI Court Success As Defined by Recidivism Rates*

There are numerous studies using recidivism rates of DUI court graduates and non-graduates as the basis to determine the effectiveness or success of DUI Courts.

Recidivism is defined in several ways including either re-arrest for an alcohol related infraction or a conviction for an alcohol related infraction. An evaluation of North Carolina DWI courts used rearrest and reconviction to determine the effectiveness of the

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DWI courts. The report concluded that their “analysis showed that participation in DWI court and hybrid drug treatment court programs was associated with a lower probability of re-arrest for DWI, number of DWI re-arrests, and the probability of reconviction over a four-year follow-up period” (Sloan, Gifford, et al. 197). The Nebraska Supreme Court defined recidivism for their DUI and other problem solving courts as a final conviction for certain classes of crime (Nebraska Judicial Branch). An example of a conviction that would count is a misdemeanor such as passing a worthless check worth less than \$200 or in general misdemeanors that had a maximum penalty of six months to one year in jail and a fine of \$500 to \$1,000 or both (Neb. Revised Statute 28-1060, Nebraska Judicial Branch, Criminal Defense).

A study of nine Minnesota DWI courts reported that the majority of the participants had reduced recidivism. The study defined “recidivism rates as the number, or percentage, of participants who were rearrested at least once in the two years after program entry out of the total number of participants in the sample” (Minnesota DWI Courts 7).

The Howard County Maryland DUI Court evaluated their program on both graduation and recidivism. The evaluation defined recidivism as re-arrests for any new criminal arrest after a participant started the program. The study compared re-arrests for graduates and non-graduates two years after beginning the DUI court and concluded that DUI and non-DUI arrests for graduates versus non-graduates and determined there was not any difference statistically (Mackin et al. 12).

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An evaluation of three Georgia DWI courts to determine their effectiveness used recidivism rates in regard to whether or not they graduated or were terminated. Georgia defined recidivism as DUIs and other related alcohol offenses whether charged or not (Fell 30).

A 2011 evaluation of the Maricopa County Arizona DUI court concluded that DUI felony offenders who were randomly assigned to the DUI court program achieved a lower rate of recidivism. The definition of recidivism was “the probability of a re-conviction of an alcohol-related traffic offense on or before a given time (Jones vii)” However, the evaluation later stated “Such offenses include both criminal offenses and non-criminal offenses such as breath test refusals” (Jones. 3).

### **A Detailed Review of Seven DUI Court Evaluations**

Now that some general information about DUI courts and evaluations has been provided, this literature review provides a more detailed summary of seven DUI courts from various regions of the United States.

#### *Roseau County Minnesota DWI Court*

The Minnesota Department of Public Safety in 2012 conducted a process evaluation, outcome evaluation and a cost benefit evaluation of nine Minnesota DWI courts. The evaluations were conducted by NPC research of Portland, Oregon. The Roseau DWI court (RCDWI) began in April 2008 and was one of nine courts to be

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evaluated (Zil et al). Roseau County, Minnesota has 15,000 people located on the United States-Canadian border south of the Canadian province of Manitoba (Roseau County).

The evaluation contained an executive summary that contains a short description of the process evaluation, the outcome evaluation and provided several recommendations (Zil et. al).

### Process Evaluation

The process evaluation was designed to include the collection of the following information:

1. Jurisdictional characteristics of each of the nine Minnesota DWI courts.
2. Description of the eligibility criteria for participants.
3. Description of the DWI court team including the roles and responsibilities of each team member.
4. Description of the DWI courts' program phases and requirements.
5. The outcome evaluation was designed to provide the following information.
6. Recidivism outcomes of all DWI court participants, from date of entry in the DWI court, was compared to a matched group that received traditional court monitoring over a period of 12, 24, and 36 months. Prediction of successful outcomes based on program and participant characteristics.
7. Description of significant predictors of recidivism at 12, 24, and 36 months.

(Zil et al. 2)

NPC collected data by visiting RCDWI court and conducting interviews with the program coordinator, some team members, the RCDWI judge, the DWI court coordinator, treatment providers, case managers, probation officers, and attorneys. The interviews were conducted in person or by phone. They also did assessments with staff members to collect information on how different parts of the program are conducted, collected data from numerous sources, and conducted interview with former and current

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participants. NPC also reviewed assessment forms, past reports, and the participant handbook (Zil 3-4).

The evaluation reviewed whether RCDWI was complying with the *10 Key Components of Drug Courts* and the *10 Guiding Principles of DWI Courts*. (Zil 3). NPC found that the RCDWI program was following both the *10 Key Components of Drug Courts* (NADCP, 1997) and the *10 Guiding Principles of DWI Courts*. (NCDC, 2005). The evaluation did not explain why they did not use only the *10 Guiding Principles of DWI courts* which would be more appropriate for a DWI court evaluation. The review of each of the *10 Key Components* followed the same format for each key component beginning with a short description of the key component, research supporting it, what RCDWI was doing, commendations, and recommendations (Zil et al. 5-30).

An example of a Key Component is the following: Ongoing Judicial Interaction with each Participant is Essential. The research has shown that participants have a better outcome are those that have one court appearance every two weeks when they first enter their program. The RCDWI program has participants attend a court session once every two weeks in their first two phases. A commendation stated the same judge has presided over the program for more than two years and research has shown participants do better when they appear in court with judges with experience of more than two years in the program. The evaluation recommended that the RCDWI consider how to have another judge who has experience with a DUI court available for the RCDWI.

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### *Eligibility Requirements*

The court accepts only post plea or post conviction applicants. They will accept those who violate their probation, but the evaluation stated that not all DUI team members were aware the court allowed applicants that had violated probation. RCDWI does not accept applicants with a pending violent charge or violent conviction. A chemical health assessor then screened potential participants for level of care, eligibility, and co-occurring psychiatric disorders including suicidal ideation. The RCDWI team reviews the applicants for admittance and strives to reach a consensus on the applicants but only the judge may veto an applicant. The two factors the evaluation listed for admission to the court were suitability and willingness to change. RCDWI accepts both dependent and substance abusers. The preferred applicants are repeat DWI offenders with either a felony or gross misdemeanors (Zil et al. 24-26, 12).

The RCDWI court has five phases. Each phase consist of what a participant will do in that phase and what the participant must accomplish to move to the next phase. The RCDWI and Erie-Niagara DUI are typical DUI court programs and are comparable to the other DUI courts thus the DUI court programs will not be shown.

Phase I:        Acute Stabilization        Length: Minimum 2 Months (60 days)

#### Requirements:

1. Attend Court bi-weekly.
2. Obey all laws.
3. Comply/Attend treatment and follow all treatment requirements.
4. Complete mental health/trauma screening, if recommended.
5. UA/PBT and other drug and alcohol testing at a minimum of two times per week.
6. Create a case plan with probation agent.
7. Attend weekly case management meetings with probation agent.
8. Seek secure housing.

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9. Obtain medical assessment, if needed.
10. Maintain a positive attitude towards staff and peers.

### Requirements to Advance to Phase II:

1. Attend all court appearances.
2. Maintain 14 consecutive days of sobriety.
3. No unexcused absences for 30 days prior to advancement.
4. Satisfactory progress in all required treatment (complete any missed treatment or meetings as required by the treatment provider).
5. Submit to all random home and work checks.
6. Attend all meetings and phone contact with your probation agent.
7. Satisfactory compliance with all program requirements.

### Phase II: Clinical Stabilization      Length: Minimum 3 Months (90 days)

#### Requirements:

1. Bi-weekly court hearing appearances.
2. Obey all laws.
3. Continue to follow treatment recommendations including individual and group treatment, if required.
4. Random UA/PBT or other drug or alcohol testing at a minimum of 2 times per week.
5. Submit to random home and work checks.
6. Participate in any combination of the following processes (cognitive skills, education/GED, driver's license process, employment, parent education, health maintenance, financial management training, living skills and hygiene training, and any other similar program as deemed appropriate by the Drug Court team).
7. Continue to follow medical recommendations per your licensed physician, if required.
8. Attend at least two case management meetings per month with probation officer.
9. Seek sober housing, if needed.
10. Address financial obligations.
11. Review and updating of case plan and develop a repayment plan for court fees.

### Requirements to Advance to Phase III:

1. Maintain 30 consecutive days of sobriety.
2. No unexcused absences for services/meetings for 45 days prior to advancement.
3. Complete treatment program and follow aftercare requirements.
4. Submitted to all random home and work checks.
5. Attend all court appearances.
6. Complete and/or continue participation in basic life skills classes.

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7. Develop payment plan for other financial obligations (if applicable).
8. Attend all meetings and phone contact with your probation officer.
9. Remain current on all costs and fees as ordered by the Court.
10. No new crimes committed while participating in the program.
11. Complete Petition for Phase III.

Phase III: Pro-Social Habilitation      Length: Minimum 3 Months (90 days)

### Requirements

1. Bi-weekly court hearings.
2. Obey all laws.
3. Attend bi-weekly case management office meetings with probation officer.
4. Minimum once monthly home visit by probation officer.
5. Maintain established individualized case plan.
6. Comply with treatment requirements.
7. Establish a sober support group by attending meetings.
8. Random UA/PBT or other drug and alcohol testing minimum of two times per week.
9. Pay all fines and fees as required.
10. Maintain employment or work towards education/vocational progress.
11. Develop and identify personal improvement goals.

### Requirements to Advance to Phase IV:

1. Maintain 45 consecutive days of sobriety, abstaining from all mood-altering chemicals.
2. No unexcused absences from scheduled services for 60 days prior to advancement.
3. Attend all court appearances.
4. Submit to all random home and work checks.
5. Attend all meetings and phone contact with your probation officer.
6. Remain current on all costs and fees as ordered by the court.
7. Maintain employment and or education/vocation goals.
8. Begin establishing a license reinstatement plan.
9. Complete all other requirements as directed by Drug Court Staff.
10. Complete Petition for Phase IV.

Phase IV: Adaptive Habilitation      Length: Minimum 3 months (90 days)

### Requirements

1. Attend court hearings monthly.



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2. Obey all laws.
3. Monthly home visits with probation.
4. Current on program financial obligations.
5. Random UA/PBT or other drug and alcohol testing minimum twice weekly.  
Continue to participant in any educational, or rehabilitative programs.
6. Maintain a sober network.
7. Ongoing review and updating of case plan with goals accomplished.
8. Continue to comply with treatment plan.
9. Continue to follow license reinstatement plan.

### Requirements to advance to Phase V:

1. Minimum 60 consecutive days sober immediately prior to advancement, abstaining from all mood-altering chemicals.
2. No unexcused absences from scheduled services for 60 days prior to advancement.
3. Completion of Phase Change Application.
4. Satisfactory treatment progress or completion.
5. Monthly home visits by Probation Agent.
5. Random UA/PBT or other drug and alcohol testing minimum twice weekly.
6. 8 hours of Community Work Service
7. Continue aftercare plan.
8. Continue to follow license reinstatement plan.
9. Continue to follow payment plan for program fees.

### Commencement Requirements:

1. Minimum 90 days sober immediately prior to advancement.
2. No unexcused absences from scheduled services for 90 days prior to advancement.
3. Completion of all phase requirements and case plan goals.
4. Completed work toward high school diploma or GED.
5. Employed or in school full time.
6. Participating in a recovery support group.
7. Living in a safe, sober, stable residence.
8. Program fees and restitution has been paid.

Participants are eligible to graduate when they have completed a minimum of 14 months in the DWI court, actively participated in the court, completed all phases of RCDWI

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court, satisfactory compliance with all program requirements, maintain a sober network and maintain employment or school or a combination.

Phase V: CONTINUING CARE: Length: Minimum 3 months (90 days)

Requirements:

1. Continued sobriety.
2. Monthly court hearings.
3. Obey all laws, plan for after care, sobriety and recovery. The participant then submits a written request to graduate to the RCDWI court team and the team then decides whether the person is ready to graduate (Participant Handbook).

### Outcome Evaluation

The outcome evaluation compared two groups. The first group was those that participated in the RCDWI court. The second group was a comparison group that consisted of those that were eligible for the RCDWI court but did not participate in the RCDWI court and instead were on standard probation. In answering these questions the evaluation explained the source of the data and the statistical method to evaluate the data. There were 37 RCDWI court participants in the study. There were about 25% women and 75% men and about 80% were white and 18% American Indian. The comparison group consisted of 60 people that were 88% white and 14% American Indian. The average age was 39 for the RCDWI group and 37 for the comparison group. The evaluation then outlined the arrests for both groups over two years. They also noted their education, employment status, mental health diagnosis, addiction status, risk level, and substances used in the last year. This data was not available for the comparison group (Zil et al 57).

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1. What was the impact of the DWI court on recidivism? (Zil et al. 35).

The evaluation defined recidivism as a DWI rearrest and measured “the percentage of participants that were rearrested, all rearrests and DWI arrests, and number/percentage of individuals rearrested at least once during the specified time period. Participation in the RCDWI court did not reduce the recidivism rate compared to those individuals in the comparison group regardless if they had graduated or not graduated from RCDWI court. The comparison group was also not rearrested sooner than those in the RCDWI court. The evaluation was unable to evaluate whether RCDWI participants had reduced traffic related crash rates then those in the comparison group.

2. What is the impact of DWI court on other outcomes of interest? (Zil et al. 36).

RCDWI participants did not have more license reinstatements compared to the comparison group. The evaluation stated it was possible that RCDWI participants increased their use of ignition interlock compared to the comparison group, but because of a lack of data the evaluation was unable to say it was statistically significant.

3. How successful is the program in bringing program participants to completion and graduation within the expected time frame? (Zil et al. 36).

The evaluation determined that the RCDWI graduation rate was 86% compared to the national average of 57%. It also reported that RCDWI participants graduated in about 19 months and the DUI court required a minimum of 18 months.

4. What participant and program characteristics predict successful DWI court outcomes? What predicts non-completion (termination or unsuccessful exit) from the DWI Court program? (Zil et al 36).

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The evaluation was not able to answer question four as to the predictor of non-completion as the evaluators lacked the necessary data because only five individuals out of the 36 participants did not successfully complete the program.

The evaluation reviewed an individual's education, employment status when they began the program, program length, number of DWI court hearings they attended, and days after arrest to beginning of the program but due the low number of non-graduates it was not possible to reach a conclusion on the effect on graduation rates. The data was obtained from the State Court Administrator's Office drug tracking sheet and the Judicial Branch.

NPC did not do a cost evaluation for RCDWI due to a lack of appropriate offender numbers.

The executive summary concluded that the outcome analysis did not show a significant difference between RCDWI participants and the comparison group (Zil et al. 36, 42-44, 35, 40, iii-iv, 39-42, 37, 1, iii).

### *Butte-Silver Bow Montana DUI Court*

Butte-Silver Bow County Montana has a DUI court focusing on adults that have been convicted or charged with a misdemeanor alcohol-related traffic offense. The Butte DUI court works toward addressing the participants' conduct and at the same time enforcing DUI victim rights (National Drug Court Resource Center).

Dr. Timothy Cook Ph.D. of Clinical and Research Consulting of Missoula Montana (CRC) evaluated the Butte-Silver Bow court (Butte DUI court) in 2013-2014.

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Dr. Cook had performed earlier evaluations in 2011, 2012, and 2013. Dr. Cook had worked as a consultant, so he stated the caution he took to not let his consulting role interfere with his objectivity needed for an unbiased evaluation. His earlier consulting visits included attending Butte DUI court graduations, observing DUI court, and casual conversations with DUI court members.

The evaluation reviewed the program standards, results and what the author termed “(T)he overall question: (H)ow well is the program complying with treatment court model standards” (Conley)?

### *Eligibility Requirements*

The eligibility criteria for Butte DUI Court was outlined in the Butte-Silver Bow DUI court handbook.

1. The participants must be an offender with a misdemeanor charge that occurred in Butte-Silver Bow County with significant substance abuse as the main reason for being in the criminal justice system.
2. All participants must have a minimum level American Society of Addiction Medicine (ASAM) level 1 of care, which includes intensive outpatient treatment as determined by an addiction diagnosis or alcohol dependency.
3. The participant must have offenses which to provide the DUI court with at least 12 months of jurisdiction and preferably 18-24 months of court.
4. Participants that have a 2nd or 3rd offense are eligible for the court.
5. The DUI court will accept participants if they have a first offense and the blood alcohol test (BAC) results level exceed the legal limit of .08.

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6. Participants under the age of 21 may be accepted if their BAC is greater than .08, they meet the addiction criteria, and have a desire to change. The court will also accept participants under the age of 21 with a BAC less than .08, and who meet addiction criteria and desire change.
7. Participants who have prior convictions for sexual offenses or for a violent offense as defined by federal guidelines to the program are not eligible for the court.

The above eligibility criteria was the basic admission criteria, and then the applicant's case would be further reviewed to determine if the following circumstances would disqualify an applicant versus the need for the applicant to participate in to admitted to the DUI court.

- Limited Court Jurisdiction, less than 12 months jurisdiction
- Less than 18 years old
- Violent Criminal History as defined by federal guidelines
- Has gang affiliation
- Enrolled in drug court
- Has a felony DUI
- Has a DUI with collision resulting in felony conviction
- Has a DUI with significant injuries
- Pending felony charges
- Previous prison and/or parole history
- Sex Offense
- Currently on Felony Supervision
- Significant drug related charges
- Highly resistant to changing their behavior in spite of previous interventions and/or punishments-According to (RANT) meaning (risk and needs triage)
- Out of City residents
- Lack of transportation
- Significant mental illness (Axis I mental illness or behavioral disorder) that would prohibit treatment recommendations and assignments
- A medical marijuana card or caregivers license and does not agree to abstain from the use of marijuana.

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### *DUI Court Phase*

There are four phases in Butte DUI court. The four phases are Phase I up to 45 days; Phase II – Early Recovery, approximately 90 days; Phase III- Maintenance and Relapse Prevention, approximately 115 days; Phase IV – Aftercare and Continuing Care Plans and Graduation, approximately 115 days.

The first phase included assessments for clinical/mental health, weekly court appearances, Clinical/Mental Health assessment, case management assessment, Probation orientation and assessment, 3 random alcohol/drug screens per week, comply with any additional treatment requirements, record of 3 consecutive clean urine screens, and participant signs Phase II contract.

The second phase consists of random home visits, maintaining or seek employment, three alcohol tests per week, attend three support or sober meetings per week, weekly court appearances, meet with of probation, participate in case management meetings and enroll in DUI school.

The third phase consists of random home visits, bi-weekly court appearances, participate in weekly case management meetings, attend scheduled monthly meetings, attend and report a minimum of three support meetings per week, and if possible pay DUI program fees.

The fourth phase consists of monthly court appearances, track monthly court appearances, attend monthly meetings, three support or sober meetings per week, maintains employment, develop relapse program, address medical and mental health issues maintenance, participate in program exit interview and DUI court commencement (Butte-Silver Bow DUI Court Handbook. 9-11).

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### Process Evaluation

The Butte-Silver Bow DUI court evaluator conducted visits to the DUI court seven times between July 2013 and November 2014 with one visit specifically for evaluating the Butte DUI court and participation in the participants group meeting before court.

The timeframe for the outcome evaluation was from the establishment of the Butte DUI court in 2010 until the fall of 2014. The data used in the outcome was obtained from data the Butte DUI court team entered into the Drug Court Case Management (DCCM), a proprietary case management system combined with data obtained from the Montana court data system.

There was data on 71 referrals who all had misdemeanors DUI convictions or charges. The referrals came from the Court (66%), defense attorney (14%), prosecutor (11%) other, and self (8%). The DUI court is post-conviction (70%) and pre-conviction (30%). The pre-conviction participants were either deferred or delayed sentences. The participants had prior DUI convictions of first, second or third DUIs.

### *Employment and Education*

The educational level of the participants improved by 34% while they were in the DUI court. The unemployment level of the participants dropped from 30% to 15% and 50% improved their employment status from part-time to full-time employment or unemployed to employed.

### *Treatment and Alcohol and Drug Testing*

Over 65% of the participants self reported that they did not have prior substance abuse treatment and Butte DUI court was their first experience with treatment. The



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participants received 436 hours of group counseling and 332 hours of individual counseling. The data showed that 57.24% tested positive and 43.75 tested negative for alcohol or drugs while they were in the DUI court. There were 27 individuals who received treatment at the SMART program. The SMART program is a drug addiction treatment center in Butte Montana. (Conley 4)

### *DUI Court Graduates*

Fifty (75.75%) of the participants successfully completed the Butte DUI court. There were 4 (6.06%) participants that voluntarily withdrew, one (1.52%) transferred, 8 (12.12%) were unsuccessful because of non-compliance, 1 (1.52%) was unsuccessful because of a new offense, 2 (3.03%) failed for other reasons, and 7 were still in the program.

### Evaluation of Their program using the 10 Guiding Principles for DWI Courts

The evaluation included the *DWI Court Model Compliance Checklist*. The checklist consists of the *10 Guiding Principles for DWI Courts*. Each principle is explained and then there are factors for each guiding principle. The evaluator checked those factors that the DUI court was complying with for each principle and added comments as what the DUI court was doing correctly and where they needed improvement. Dr. Conley at principle number 9 of the *10 Guiding Principles of DWI Court*, Evaluate the Program noted that “(T)his standard needed the most work.” (Conley 9). The discussion part of the report concluded that the Butte-Silver Bow DUI court is meeting all standards for the *DWI Court Model Compliance Checklist*.

The participants reported that 41% would receive a reduced sentence, 12% would receive a sentence for a reduced charge, 35% would not receive reduced sentence, 1%

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reduced charge and 5% their case would be dismissed if they successfully completed the court program.

### Outcome Evaluation

The DUI court evaluation stated they had not done an outcome evaluation. The evaluation did not state why Butte DUI had not conducted an outcome evaluation of their program. The DUI court at this time should be conducting an outcome evaluation to see if their DUI is performing as designed.

### Graduates

There were 50 (75.75%) participants that successfully completed the Butte DUI court. There were 4 (6.06%) participants that voluntarily withdrew, one (1.52%) transferred, 8 (12.12%) unsuccessful-non-compliant, 1 (1.52) unsuccessful – new offense, 2 (3.03%) other and 7 were still in the program. Their data system, DCCM, did not have any participants that were convicted of a new crime while in DUI court but the DUI court could not systematically determine if participants were convicted of a new crime (Conley 4-8).

### *Erie and Niagara County New York State DWI/Drug Court*

The New York Unified Court System in 2007 developed hybrid DWI/drug courts in Erie and Niagara counties, collectively identified in this discussion as DWI court, to address the problem of driving while intoxicated (DWI) drivers. These courts focus on repeat DWI defendants who have a very high blood alcohol content and are very resistant to changing their DWI conduct (Washousky 17). The DWI court did an evaluation in 2009 because it was looking for answers to the following questions:

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1. Do DWI court participants (graduates and failures) have fewer rearrests than the comparison group?
2. Does the DWI court have a greater impact on some types of rearrest (e.g. new drunk driving charges)?
3. Do DWI court participants take long to be rearrested than the comparison group?
4. Does the DWI court have particularly strong impacts on any subset of offenders longer to be rearrested on a subset of offenders (e.g. older offenders, program graduates)?
5. Do the DWI courts succeed in abbreviating the period between arrest and sentence ? (Cissner 4)

### *Program Eligibility*

The individuals that were desired for the DWI court would have a current non-violent felony DWI charge with a prior DWI conviction, misdemeanor or felony, and the individual abused alcohol. Individuals are offered the opportunity to participate in the DWI court after they entered a plea to an appropriate DWI. Those who agree to enter the DWI court would be subject three to five years probation with the requirement they enter the DWI court. Those that did not agree to participate in the DWI would face prison time. Those who entered the DWI court and did not successfully complete the program were revoked from probation and sentenced to prison (Cissner et al. 1).

The DWI court required a person to plead guilty to a felony DWI, abstain from all alcoholic beverages, wear an alcohol monitoring device (SCRAM) and/or be subject to unannounced breath tests, undergo a treatment program of 12-18 months, appear in DWI court every two weeks, and in the majority of cases, accept they may receive a split sentence (probation plus jail time), jail followed by five years of probation (Washousky 17).

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### Process Evaluation

The evaluation included those who were in the DWI court when it began in July 2007 through November 2008. A participant that enrolled in the DWI court would have been identified as having an alcohol problem and had at one previous DWI conviction. The DWI court did not allow a person to participate unless they had been convicted or pled guilty (Cissner 1).

The purpose of the evaluation for the DWI court was to measure case processing and rearrests. Participants must be identified as having an alcohol problem and had at least one previous DWI conviction. The DWI court did not let a person participate unless they had been convicted or pled guilty. The DWI court was voluntary. The participants in the DWI court were placed on probation and those that do not participate are usually sentenced to prison. The time frame of the evaluation was the first sixteen months the DWI court operated, but it also included three additional months so all court participants could be evaluated for a minimum of three months.

There were 90 individuals who were sentenced to the DWI court, and of that group 31 were evaluated for a one-year period and 70 for a six-month period. A comparison group included defendants convicted of a felony offense and placed on probation excluding those with a jail sentence or a jail and probation sentence. The comparison group included individuals only from Erie and Niagara Counties who had not previously participated in a DWI court or drug court. The evaluator assigned propensity

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scores to account for what type of individuals was in the comparison group that would probably be in the DWI court.

### Outcome Evaluation

At the time of the evaluation 75% were still in the DWI court. There were 23 participants that were no longer in the program, with 19 graduating (83%) from the DWI court and 3 participants who failed the program (13%) and one participant (4%) was pre-plea and left the DWI court due to noncompliance (Cissner iii).

The evaluation found the following noncompliance rates among the DWI court participants with 9% attempting to remove their SCRAM device, 3% tested positive for alcohol consumption, and 7% tested positive for a controlled substance. The average time to remove or tamper with the SCRAM was 108 days, the average time to test positive for alcohol was 26 days and to test positive for drugs was 118 days. Those who tested positive for controlled substances or alcohol were still in the DWI court (Cissner 10).

The evaluation defined non-compliance as removal from DWI court, attempt to remove, or interfering with the SCRAM device or testing positive for alcohol or a controlled substance. Non-compliance occurrences were somewhat more likely by older DWI court participants. Non-compliance occurrences were less likely with those convicted with “common” DWI and white participants. The use of alcohol or drug use or interfering with the SCRAM device was not significantly predicted by prior criminal

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history. The evaluation did not use the comparison group for non-compliance and reuse of controlled substances or alcohol as data was not available (Cissner iii-iv).

The evaluation also looked at case processing efficiency, a goal of early drug courts. Case processing efficiency was defined as the days from arrest to disposition or DWI court entry. The days from first arrest to entering the DWI court or disposition were almost identical with the DWI court group participants, taking 258 days and the weighted comparison group taking 256 days.

The characteristics of the members of both groups were reviewed for the probability of rearrests by looking at the age, sex, race, pre-disposition warrant, and number of prior misdemeanor convictions, showed that those with prior misdemeanor convictions were more likely to have new arrest (Cissner 15).

The impact of the DWI court for rearrests at 3 months, 6 months and one year at post-sentencing did not show a statically significant difference between the DWI court participants and the comparison group. The percentage at 6 months was 2% for DWI court participants and 4% for the comparison group and 5% versus 8% respectively for one year. When the evaluation reviewed the rearrests between DWI and drug related rearrests the results were not significantly different. The time for a post conviction arrest averaged 154 days for the DWI court participants and 151 days for the comparison group.

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The evaluation report also concluded that when reviewing the total number of new arrests between the comparison participants and the DWI court participants there was no significant difference (Cissner 13).

### Conclusion

The author of the evaluation concluded that the DWI court did not “significantly affect probability, timing, or prevalence of the rearrest rate of DWI court participant”(Cissner 16). Additionally the DWI court had no effect on DWI or drug related arrests of participants.

The evaluation found favorable results that only four individuals (17%) failed the DWI court and very few individuals had tested positive for controlled substances (7%) or alcohol (3%) and 14 DWI court participants had reused or tried to reuse alcohol or a controlled substance. The author concluded that a longer time to follow participants was needed and a larger number of DWI court participants may provide statistically significant numbers for the medium to smaller differences between the the participants (Cissner 16).

### *Three Georgia DUI Courts*

Three Georgia DUI courts were created in 2003 as a joint effort of the National Highway Safety Administration, Georgia’s Governor’s Office of Highway Safety and the Department of Justice. The intent of the DUI courts was to improve public safety by reducing recidivism and have offenders comply with an evaluation, treatment and intervention programs. Pacific Institute for Research and Evaluation of Calverton,

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Maryland, conducted the evaluation to determine if the DUI courts were reducing recidivism and operating as planned. The report provided a summary of the evaluation including the DUI courts' methods, goals, results, and conclusions. The three DUI courts are in misdemeanor state courts and felony DUI defendants are not eligible as they are in Superior Court.

### *Eligibility Requirements*

The three courts are post convictions courts with the participants sentenced to the DUI court if they meet the eligibility requirements. The courts do not accept violent offenders, but the evaluation did not define "violent offenders." A person with one DUI is generally not eligible but there are exceptions. The participants must live in or close to the county where the court is located and be able to attend treatment even if they do not drive. Outside of these general requirements, each court has some slight differences regarding who they let participate (Fell et al. 1, 3-4, 8-9, 10-11).

### *Program Structure*

The Athens/Clarke County DUI court consists of the following phases:

***Phase 1:*** Orientation, contracting, and initial clinical assessment.

Intake, NEEDS survey within 48 hours of sentencing or release, orientation, level-of-care screening, assignment to treatment group

***Phase 2:*** Extended assessment (duration minimum 8 weeks)

2 hours per week in group therapy with at least one individual session with DUI court treatment provider twice each month

***Phase 3:*** Active treatment and early recovery (duration minimum 24 weeks)

2 hours per week in group therapy with at least one individual session with treatment provider. DUI court twice each month.



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***Phase 4:*** Relapse prevention (duration minimum 16 weeks)

3 hours per month in group therapy with at least one individual session with treatment provider. DUI court twice each month.

***Phase 5:*** Continuum of care (duration 52-104 weeks).

Individually determined requirements based upon the needs of the participant. Duration: determined by DUI/drug court team. Court monthly until graduating from the program.

(Fell et al.17)

The other two counties have about the same DUI court structure with small differences.

### Process Evaluation

Evaluators visited the three DUI courts and met with treatment providers, probation officers, public defender attorneys, prosecutors, judges, and DUI court coordinators. They watched DUI court proceedings and conducted interviews with essential individuals. The evaluators also obtained court attendance and compliance data. The evaluators used surveys to collect data on offender retention and progress in the DUI courts. The DUI court personnel reviewed what they had learned and what issues they had resolved in the first two years of operating their DUI courts (Fell et al.10).

The DUI courts used a client-tracking program that allowed the DUI court team members to enter information on the individuals' treatment, information from probation and organizations that provided treatment to participants.

### Methods

There were 363 participants that successfully completed one of the DUI court programs. There were 259 participants that did not complete one of the programs for a

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number of reasons including non-compliance, health concerns or moved away. The evaluation combined the following information from the three courts:

### Substance Abuse Assessment

No apparent addiction	0%
Potential or beginning problem	5%
Problem that needs addressing	17%
Established Addiction	22%
Severe addiction	55

### Education

Less than High School	32%
High School Graduate	43%
Some Post High School	18%
College Graduate	7%

### Race

White	61%
African American	24%
Hispanic	11%
Asian	1%
Multiracial /Other	3%

(Fell et al 25)

The evaluation also included the participants marital status, income level and employment status. There were 83% male, 17% female and 27% of the participants had previous drug or alcohol treatment. The range of time in the DUI courts for individuals who graduated was from 9 to 22 months with 14 months the average time (Fell 23, 28, 25-26).

The most common DUI court participant was: white, high school graduate, not married, employed and makes about \$20,000 a year. The participant has not received

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treatment for substance abuse, with alcohol as the primary drug of choice, and they drove on a suspended license (Fell et al. 11).

### Outcome Evaluation

The evaluation used the term “any recidivism here include DUIs and other alcohol-related offenses, and other alcohol related - offenses that often involve alcohol whether a DUI is charged or not, and may even be charged by police instead of DUIs for more serious offenses” (Fell et al. 30). More specifically, the following offenses were used:

- Explicit DUIs (which accounted for 92.6% of the recidivism events)
- Other Alcohol Offenses (Ignition Interlock Violation; Serious Injury by Vehicle; Firearm Discharge while DUI; Zero Tolerance Violation if under age 21, etc.)
- Habitual Violator
- Vehicle Causing Injury (Fell et al. 31)

The Criminal History Record Information file did not contain administrative license revocations (ALR) or BAC refusal charges unless they were also charged with a DUI or alcohol offense that was available in the criminal history record.

The evaluation determined that the participants who had graduated or were terminated from a DUI court had a recidivism rate of 15% compared to 35% for the retrospective group and 24% for the contemporary group over a four-year period. The four-year period is from when they had a DUI or other alcohol event before entering a DUI court. The evaluation showed the results another way by stating the DUI court participants, the intent to treat group had a 38% reduction in recidivism than the contemporary group and 65% lower than the retrospective group. DUI court graduates

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had 63.5% reduced recidivism rate than the contemporary group and 79.3% than the retrospective group. The DUI court participants who were terminated had a 26% recidivism rate. DUI court graduates had a 9% recidivism rate which was 65% less than the participants who were terminated. The recidivism rate for the DUI graduates ranged from 7%-11% in the three counties.

The evaluation also determined if there was any factors that predicted recidivism. The report concluded that only age and the number of previous DUIs were a significant recidivism predictor. The age group of 18 to 25 was more probable to have another DUI. The report concluded that for each year of age the probability to have another DUI decreased by 1.9 percent. The sex and the race/ethnicity of a participant were not significant pertaining to recidivism after taking into account age and prior DUIs.

### *Prevented DUI Arrests*

The evaluation concluded that between 47 and 112 DUI arrests were avoided using the four-year recidivism rates. This information was determined by making assumptions about certain facts but they lessen the reliability of the conclusion.

### *Limitations*

The evaluation contained a limitations page that described four areas of concern. The first limitation was that the evaluation was unable to obtain BAC test refusals and administrative license revocations due to an upgrade in the Georgia Driver Services Record system. If this information was available, their recidivism results could have been lower. The second limitation was that they could not use the DUI court participants' graduation dates as the time to begin determining recidivism rate because the comparison groups did not yet have a graduation date. They then used the date when participants received their DUI that preceded their entry into the DUI court. Evaluators' concern was

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that a DUI during the program could cause a participant's termination from the DUI court and thus recidivism could be artificially reduced for the average program length. The third limitation was that ideally they would randomly assign DUI offenders to DUI courts and others to the regular court proceedings. This is the ideal scientific method to evaluate DUI courts but some researchers frown upon this method because they are denying individuals the opportunity to participate in the DUI court. The fourth limitation was they were unable to conduct a cost analysis due to the unavailability of data even though in the conclusion section stated that the state of Georgia saves a lot of expense in less jail time, treatment, and probation. The statement regarding saving money is of little value as it is not supported by any data. (Fell et al. i, 3-4, 41-42, 46)

### *La Crosse County Wisconsin OWI Court*

La Crosse County (Wisconsin) OWI court was evaluated in 2013 by Andrew Meyer Ph.D and Matthew Makarios Ph.D of Research Driven Solutions. The evaluation included all 936 OWI court participants from 2006- 2012 (Myer and Makarios 37).

### *Participants and Eligibility Requirements*

The La Crosse OWI Treatment Court is a voluntary post conviction program and a person or department cannot require participation. The participants must voluntarily agree to follow the rules of the La Crosse County OWI Treatment Court Program. A participant must be convicted of OWI third and referred by a judge to the OWI court or convicted of a first offense OWI felony and assessed as dependent. A person convicted of a second OWI offense and assessed as suspected dependent or dependent is eligible to participant.

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There is a category of participants labeled “irresponsible users” who have been convicted only of an OWI 2nd offense. The irresponsible applicants are determined by an assessment. The applicant may participate in the OWI Treatment Court if assessed as suspected dependent or dependent.

### *OWI Court Program*

The program consists of two tracks. The first track is for low to moderate/high risks and is a minimum of 9 months and 100 plus hours of treatment. The second track is for moderate/high risk to moderate high need. It is a minimum of nine months and 200 plus hours of treatment. The treatment consists of day treatment, intensive outpatient or supportive outpatient treatment, aftercare and relapse prevention and other based treatment groups (La Crosse Cty Treatment Ct. 5-6, 27-28).

### Process Evaluation

The purpose of the evaluation was to review the services and program material of the La Crosse OWI court and along with the organizations that provide treatment services to participants receive treatment services. Additionally the evaluation was to compare the organization’s procedures with the best practices in corrections. The process used to evaluate the La Crosse OWI court was the Evidence-Based Correctional Program Checklist – Drug Court (CPC-DC). The CPC-DC is designed for use in treatment courts and is based on the Correctional Assessment Inventory (Myer and MaKarios 6). The University of Cincinnati describes the purpose of the CPC: “The CPC is designed to evaluate how correctional intervention programs adhere to the principles of effective intervention” (Evidence-Based 1). The university conducted several studies with over 40,000 juveniles and adults in over 400 correctional programs to develop indicators for

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the CPC. The correctional programs ranged from community based to institutional. The CPC lists five limitations regarding the use of their program:

- The program is based on the best practices from known procedures that reduce recidivism.
- The program can be influenced by impartiality and accuracy.
- The assessment is based on the existing OWI court program.
- The program addressed all the internal issues that affect a OWI court program.
- The program does not determine why some procedures work or do not work.

While there are limitations to the use of the CPC, there are several advantages of the CPC including that it identifies the weaknesses and strengths of a program as the criteria is based on evidence based standards of effective programs that are shown to reduce recidivism, provides suggestions for improvement, and allows comparison with other OWI courts using this program (Evidence-Based 1-2).

### *Procedures for Using the CPC-DC (Evidence Based).*

The evaluators are trained on the use of the CPC-DC. The CPC-DC has two parts, one for the drug court (COPC-DC) and the other for organizations that provide services to drug court clients (CPC-DC RA). The instruments are divided into two parts, capacity and content. Capacity includes two parts:

1. Development, coordination, staff and support
2. Quality assurance

The content area is divided into two areas:

1. Assessment practices
2. Treatment

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The content area focuses on the drug court and the organizations that provide services to participants if they meet the principles of risk, need, responsibility and treatment. Each of the two parts, COPC-DC (DC) and CPC-DC RA (RA) have indicators and points that are scored during the assessment. The areas are scored as highly effective 65%-100%, effective (55%-64%), needs improvement (46%-54%) and ineffective (less than 45%).

### *Data Collection*

The OWI court evaluators collected assessment data in a number of ways. The evaluators conducted interviews with OWI court members and participants. They examined participants' open and closed files, treatment manuals, assessments, ethical guidelines, and OWI team members' evaluations. They also took a hands-on approach by observations of the OWI court team and OWI court sessions. They interviewed and did observations of two treatment providers. One treatment provider was not interviewed or observed despite attempts to do so. Finally, the two evaluators conducted file reviews, observations, and interviews.

The scores from the CPC-DC that evaluated parts of the OWI court process:

<b>CPC-DC SECTIONS</b>	<b>Score</b>	<b>Rating</b>
Development, Coordination, Staff, and Support	77.8%	Highly Effective
Offender Assessment	33.3%	Ineffective
Treatment	44.4%	Ineffective
Quality Assurance	33.3%	Ineffective



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Overall Capacity	60% Effective
Overall Content	40.7% Ineffective
Overall Score	47.6% Needs Improvement

(Myer and Makarios, 9-11,13)

The evaluation then discussed the strengths and made recommendations for improvement for each of the above categories.

### Outcome Evaluation

The OWI Treatment court used data collected from their court process. They used a quasi-experimental matched – comparison group with information from the Wisconsin Department of Corrections to build a matched comparison.

### *Completion of Program*

There were 936 individuals that were participants in the OWI court. They were grouped into five categories: successful, unsuccessful, active, nonparticipant, and pending. They defined those groups in the following manner: active as currently participating, nonparticipants were referred to the OWI but chose not to participate, pending were individuals who had not decided whether or not to participate, successful were those that completed the program and unsuccessful were those who did not complete the program. A total of 395 out of 671 participants successfully completed the program, which was 42% of the five categories. The success rate was 60% when they did not include the active, pending and nonparticipants groups (Myer and Makarios 40).

### *Recidivism*

The La Crosse OWI court defined recidivism two ways. The first method was whether any individual received any new criminal charge within 36 months after an

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individual entered the program including operating after revocation. This method did not include non-criminal and “minor track charges” as recidivism. The National Center for State Courts recommended that all Wisconsin treatment courts use this definition (as cited in Myer and Makarios 38). Recidivism for the different groups was 23% for the successful group, 46% for the unsuccessful group, 24% active and 35% for nonparticipant. The failure to complete or not participate in the DUI court shows that participating in the court reduces recidivism.

The evaluation also included a risk assessment. The risk assessment results were that 72.7% (64) were low risk, 17% (15) moderate risk and 10.2% (9) high risk. The low number of those that were assessed using the newer risk assessment tool did not allow a valid statistical comparison although the results appeared to be close to that of the older risk assessment tool.

The evaluation then used a matched comparison to determine recidivism for new charges by risk level and successful and unsuccessful participants. The evaluation then compared the number of new charges for those that successful completed the program based on risk. The new for each risk group were 21.6% low risk, 22.4% moderate risk and 25% high risk. They were unable to use a comparison group for the high risk but for the moderate risk the comparison group had 35.2% new charges, 12% more than the moderate treatment group. There was also a comparison of those unsuccessful in the program, and they showed no difference between the comparison group and the unsuccessful treatment group.

A strength of La Crosse’s OWI court evaluation is the use of a participant’s risk evaluation which allows the court to encourage moderate and high risk individuals to complete the La Crosse OWI program and thus reduce recidivism. The report concludes

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that the court should concentrate on moderate to high-risk individuals (Myers and Makarios 38-39, 44, 42, 55, 58).

### *Maricopa County Arizona DUI Court*

The Maricopa County Arizona DUI court is a post conviction court designed to reduce the recidivism of serious DUI offenders. This evaluation of the DUI court was to determine if the drug court model could be used to deter repeat significant DUI drivers and if the DUI court was more efficient than conventional methods for DUI drivers (Jones vi). The evaluation organization Mid-America Research Institute (MRI) stated that the goal of the evaluation was, “What is the recidivism of offenders participating in the DUI court program and how does it compare with the recidivism of offenders given standard probation?” (Jones 3)

A tangential purpose was to outline the specifics of the DUI court and measure what actions the DUI court staff did over the time of the evaluation. In order to achieve its goal MRI developed procedures to follow participants in the DUI court and those on standard probation and then compare how the two groups did. They were also to determine recidivism for the two groups with different participant characteristics (Jones 2).

The evaluation described the duties of the DUI members who are the DUI court judge, program managers, probations officers, surveillance officers, contracted treatment providers and case managers, county attorneys and public defenders (Jones 8-10).

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### *Participants*

The evaluation noted that the participants were randomly assignment to either of the DUI courts or probation by the DUI court judge based upon the recommendation of a probation officer. I believe that without any further information, participant placement as described is not random.

A participant that refused to enter the DUI court program or standard probation would be sentenced to prison. The DUI court participants and the participants in standard probation group had all been convicted of a felony alcohol related offense. The participants were assigned to the DUI court or standard probation subject to two requirements, they had to reside in a specific area of Phoenix in Maricopa County, and not have any prior violent offenses as defined by federal regulations (Jones 4).

The DUI court had 421 individuals randomly assigned to it from March 1998 through October 31, 2003. There were 34 participants still active in the DUI court on October 31, 2003, and they were not included in the evaluation and the remaining 387 participants were the basis of the evaluation for DUI court participants. There were 117 terminated from the program for various reasons including DUI convictions, repeated use of alcohol, and deportation of foreign nationals by the U.S. Immigration Service. The standard probation group had 438 randomly assigned individuals with 41 still on probation at the close of the evaluation which left 397 in the comparison group (Jones 16). Those participants that had been convicted of a felony in both groups were required

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to serve a minimum of four months in prison before starting probation (Jones 4). The main difference between the two groups was that the standard probation received a maximum of three months of treatment and the DUI court participant received treatment lasted the entire time in the program as well as additional classes on treatment (Jones 7). The standard probation involved only the participant's probation agent and no surveillance compared to the DUI court team and regular surveillance (Jones 16).

### Impact Evaluation Process

The evaluation conducted analyses of the DUI court participants' characteristics to determine what characteristics were related to participants that graduated from the DUI court. The evaluation reviewed DUI court participants characteristics pertaining to age, sex, race/ethnicity, primary language, marital status, education, English reading level, employment at the time of their pre-sentence investigation (PSI) and occupational status. The report stated that 80% were white and 59% who reported they were Hispanic/Latino. The DUI court had 70% unmarried, 47% had less than a high school diploma but 23% had at least one year of college. At the time of the PSI, 70% were working full or part time.

There were four participant characteristics: age, race/ethnicity, primary language, and employment status at PSI that varied significantly as to graduates and non-graduates of the DUI court. The raw data showed that the participants 55 and older had a 91% probability of graduating and those 18-20 had a 25% probability of graduating. The majority of the participants were 21-54 years old and they were in the 70% area as to

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graduating. The highest probabilities of graduating were Hispanics (74%) and lowest were Black (48%). When Spanish was their principal language they were more likely to graduate (80%) versus those who had English (66%) as their principal language. Those that were married or had common law spouse had a 79% of graduating versus 65% for other DUI court participants.

The evaluation did a factor analysis of characteristics of DUI court participants graduating and not graduating. The first grouping was a combination of education, race, and occupational status. The second grouping was a combination of language, spouse (marital status), and work. The evaluation showed that the first grouping had greater odds of graduating if they were more educated, white and had better jobs. The second combination had greater odds of graduating if they spoke English, married, and were employed (Jones 14-15).

The evaluation looked at the contacts DUI court participants had from BAC testing, field visits, and the number of appearances before the DUI court with non graduates and graduates. The graduates had more treatment, education, court appearances, office visits, and BAC tests. There was no difference as to the number of field visits and urine tests (Jones 12-15, 19).

### *Recidivism*

The DUI court participants and the standard probation participants were divided into two groups. The first group was those individuals consisting of individuals from both

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groups that did not graduate from the program they were assigned. The second group were those individuals that graduated from the program they were assigned (Jones 20-21).

In the evaluation recidivism was defined six times with each definition having a variation from the other definitions of recidivism.

- “Recidivism was measured as the probability of another alcohol-related traffic offense on or before a given time after program entry” (Jones vi).
- The term “recidivism” as used here is defined as the probability of a re-conviction of an alcohol-related traffic offense on or before a given time. They include both criminal offenses and non-criminal offenses such as breath test refusals (Jones 3).
- ...offender recidivism, measured as the time before a subsequent alcohol-related traffic violation (Jones 4).
- Recidivism was defined as a subsequent alcohol-related offense as defined in Arizona statutes (Jones 10).
- The analyses estimated recidivism as the probability that a subject had another alcohol-related traffic violation on or before  $t$  months after program entry (Jones 20).
- .... reducing the recidivism of felony DUI offenders as measured by the time before a subsequent alcohol- related traffic violation (Jones 25).

The different definitions of recidivism such as an arrest or conviction for an alcohol related offense caused confusion as whether the evaluation in fact used different

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definitions for certain parts of the evaluation. I will use the definition that was used with the area they were evaluating.

The following evaluation used this definition: the estimated recidivism is the probability the participant had another alcohol related traffic violation when reviewing the following comparison. When the evaluation reviewed all participants after two years, 4.9% of the DUI court, and 6.7% of the standard probation group had another alcohol related traffic violation. There was 14.7% probability of obtaining this number by chance. The two groups with priors showed that the DUI court participants had lower recidivism than the standard probation group but the percentage or an exact figure was not given to explain this conclusion. When comparing the two groups after two years, 3.6% of the DUI court group had recidivated and 5.4% of the standard group had recidivated. Each prior offense for individuals in both groups increased the percent of recidivism for each group but the DUI group had lower recidivism (Jones 21).

The evaluation looked at what the evaluation termed “rough estimates of the cost per participants” with a cost \$2055 for DUI court participant and \$2114 for standard probation participants. The evaluation concluded that DUI court and standard probation were close and lower recidivisms compared to standard probation would make the DUI court more cost effective.

The evaluation reviewed DUI court graduates and DUI court non-graduates using priors as a variable and the graduates had lower recidivism rates but the results lacked strong enough evidence to show the significance of the results (Jones 25).



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### *Waukesha County Wisconsin Alcohol Treatment Court*

The Waukesha Alcohol Treatment Court (WATC) operates in Waukesha County, Wisconsin. It was the first Wisconsin treatment court that focused entirely on alcohol usage by participants (Waukesha County). The court is a collaborative effort between Waukesha County and Wisconsin Community Services (WCS). WCS has four divisions: Behavioral Health, Community and Reintegration, Court Services and Community Alternatives and Milwaukee Youth Services. All four divisions work with individuals in southeast Wisconsin to help “individuals fulfill their legal obligations and provide the opportunities for individuals to make life changes” (WCS). The Court Services and Community Alternatives works with counties to operate drug and alcohol court programs and provide pretrial monitoring. It also operates the Waukesha Pretrial Supervision Program that monitors and supervises offenders that are charged with misdemeanors and some felonies while awaiting the resolution of their case (WCS). The 10 Key Components were developed by the National Association of Drug Court Professionals (Office of Justice Programs 3) and are followed by WATC (Hiller et al. v).

The 10 Key Components are:

Key Component #1: Drug courts integrate alcohol and other drug treatment services with justice system case processing.

Key Component #2: Using a non adversarial approach, prosecution and defense counsel promote public safety while protecting participants’ due process rights.

Key Component #3: Eligible participants are identified early and promptly placed in the drug court program.

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Key Component #4: Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.

Key Component #5: Abstinence is monitored by frequent alcohol and other drug testing.

Key Component #6: A coordinated strategy governs drug court responses to participants' compliance.

Key Component #7: Ongoing judicial interaction with each drug court participant is essential.

Key Component #8: Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.

Key Component #9: Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.

Key Component #10: Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness. (Office of Justice Programs 3)

WATC is a post conviction court; thus all participants were convicted of operating while intoxicated 3<sup>rd</sup> before entering the program. The WATC program began in 2006. The program was evaluated in 2008 and that was a process evaluation of the first 17 months the program was in operation.

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WATC program consists of four phases much like the Roseau County DUI court program that was discussed above but with minor differences, therefore I will not review WATC's DUI court program.

This evaluation uses data beginning with the first participants starting May 1, 2006 through May 15, 2009. This evaluation compared two groups, those that participated in WATC and those that were convicted of an OWI 3<sup>rd</sup> who were unable to enter the program because they had completed their jail sentence before a space became open in the program and WATC participants. (Hiller et al. v-vi, 50, 24.)

### Process Evaluation

The primary sources of the data were the participant files, the database of WCS, and the Wisconsin Consolidated Court Automation Program. The evaluators observed participants and interviewed court team members with the use of a partially standardized interview. A previous report from 2008 that reviewed the first 17 months of the program was reviewed along with internal documents such as the program handbook (Hiller et al. 28). The evaluation looked at whether WATC was following the 10 Key Components and Guiding Principles for Driving under the Influence courts and whether the court was following the blueprint as outlined in their original funding. The process evaluation answered specific questions that pertinent to this evaluation:

1. What was the retention rate of participants in the program?
2. What participant characteristics predict program dropout?
3. Were there differences in the manner in which that cases were processed for WATC participants and non-participants?

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4. Were there major changes in the manner in which the court adhered to the Key Components of Drug Court?
5. Were there significant changes in the demographic profile of WATC participants?
6. What was the average length of program stay?

(Hiller et al. 28, 31)

### Outcome Evaluation

The outcome evaluation was to determine if the WATC program reached its long-term goal, which included to “reduce recidivism rate of OWI 3<sup>rd</sup> offenders” and “improve integration of OWI 3<sup>rd</sup> offenders into the legal driving community” (Hiller et al. 32). The latter question was dropped as data was unavailable. The following questions were asked:

1. “What was the number/percentage of participants arrested for an OWI 4th while in the program?”
2. How do program participants’ recidivism results compare with the results of an OWI 3rd offender who do not participate in the program?
3. Does the WATC reduce the number and percent of citizens arrested for an OWI 4th?
4. Does the WATC reduce the number and percent of participants’ new convictions for other offenses?
5. Relative to a comparison group, did the WATC decrease number and percent of participants’ new convictions for driving-related offense, e.g. driving after revocation, driving while suspended?”

(Hiller et al. 33)

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The research design started with the treatment group that included the 141 participants that were enrolled in WATC from the beginning of the court on May 1, 2006 until May 13, 2009. The comparison group was 81 individuals that were on a waiting list to participate in the court but because of limited available spaces in which to enroll they were unable to participate in the WATC program. The two groups were demographically comparable as to gender, race/ethnicity, and age when arrested for the 3<sup>rd</sup> OWI, and blood alcohol content at time of arrest for the OWI 3<sup>rd</sup>. As to employment, the comparison group had a statistically significant difference of 93% of that group were employed versus 83% in the WATC court that were employed. The two groups had comparable numbers that were married, never married or were divorced, separated or widowed and the same for at least a high school education. The two groups were similar pertaining to characteristics that are relevant to recidivism such as gender and age when arrested for an OWI 3<sup>rd</sup>. The similarity of the two groups made the evaluation more accurate.

The evaluators reviewed CCAP for all individuals to record offense date, conviction date, and length of sentence for the OWI 3<sup>rd</sup>. They additionally recorded gender, ethnicity, date of birth, any criminal traffic and other criminal cases. The criminal charge information included the date of offense, felony or misdemeanor and if convicted of it. The study did not use additional criminal activity that occurred between the arrest and conviction for the OWI 3<sup>rd</sup>.

The evaluation developed what they called time-at-risk for recidivism which is the time an individual could commit a new crime. The evaluation grouped participants who were at risk for one year and two years. The evaluators then determined the

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percentage of individuals who had a new offense within one year after being convicted or two years after being convicted of an OWI third.

The evaluations used a variety of different methods for an analysis of WATC. The evaluation compared the relationship between two variables, using the comparison group vs. the WATC group and dependent variables such as being rearrested after their 3<sup>rd</sup> OWI and independent groups.. They also looked at the relationship between the comparison group and WATC and outcomes such as recidivism (Hiller et al. 34-37, 39-42).

### *Results*

The evaluation determined that over the three years of WATC, the demographics for gender were 93% white while Waukesha County is 95% white based on the 2009 data from the United States Census Bureau. The married population decreased from 27% to 25%, while the number of single participants who have never been married increased from 38% to 46% (Hiller et al. 27). The median age of the participants was 37. The education level showed that more participants had a high school education and there was a decrease in those who had less than a high school education. There were 10% more employed in 2009, increasing from 75% to 85%; 11% were unemployed when they began the court and 4% did not work for a number of reasons including retirement and disablement, that were not counted among those unemployed.

WATC used the results obtained from the Wisconsin Assessment of the Intoxicated Driver, which evaluates a person's drug use and/or alcohol use, and a driver safety plan prepared by an independent company to determine the alcohol and drug use of the participants (Intoxicated Driver Program). The results of these assessments determined that 94% were alcohol dependent, 78% active, 14% suspected, and 2% in

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remission. Additionally, 6% of the participants reported that an illegal drug such as marijuana or cocaine as their primary abuse problem and 36% as a secondary abuse problem. Physical health issues were reported by 30% of the participants and mental health issues by 29% of the participants.

A number of participants left the program because either they quit (6.5%), failed to follow the WATC rules (5%) or faced a new criminal charge (3.5%) which left 85% that remained with the program. The 85% that remained included 57% who graduated and 28% who were still in the program. The 85% who either graduated or remained in the program was a 5% reduction from the earlier report. The gender showed that 86% of males and 81% of females remained in the program. A participant's "gender, ethnicity, age, educational and employment status, and alcohol and mental health problem severity" were not related to staying in the program (Hiller et al. 87). The use of illegal drugs either as a primary or secondary use and alcohol dependency that was either active or in remission was not related to retention.

The comparison of those that dropped out of the program with those who remained examined the blood alcohol content when arrested, average sentence length, and the sentence time remaining when they began the treatment court and found that they were similar between groups. A greater percentage of those that received treatment during the pretrial stage versus those that did not receive treatment remained in the program. If a participant had health problems, they were 3.7 times more likely to stay in program versus those who did not have health problems.

The evaluation looked at case processing time, which is the length of time before an offender matriculated in WATC. Those in the comparison group spent slightly less time in the pretrial phase compared to those entering the WATC, 5 months versus 6

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months respectively. The evaluation stated that those entering WATC received “significantly longer sentences” than the comparison group (Hiller et al. 55). However, my review of their data showed that those in the WATC received 182 days in jail and the comparison group received 168 days in jail for a difference of 14 days, which in my opinion, is not significant. The misuse of adjectives such as significant in the previous sentence can lead a reader of the evaluation to believe the results are more important than they really are (Hiller et al. 41, 33-36 38, 40, 42-47, 50, 55).

WATC defined recidivism as “being rearrested for a new offense (including OWI, OAR and other criminal offenses)” (Hiller et al. 85). The WATC evaluation did not clearly specify whether it was a conviction or an arrest, but I concluded the evaluation used it if it was a charged offense. The WATC evaluation compared participants’ one and two year recidivism rates versus the comparison group for any new offense. The one year recidivism rates for the WATC group was 20.3% and the comparison group was 26.6% but the evaluation stated the difference between the two groups were not numerically meaningful. The two year recidivism rate of the WATC group was 29% and the comparison group 45%. The evaluation broke down the new offenses as to OWI, OAR, and other criminal offenses. The OWI recidivism rate for WATC participants was 3.4% at one year and 6.9% at two years. The OWI recidivism rate for the comparison group at one year was 3.8% and a 7.8% at two years.

The evaluation also reviewed predicting recidivism for OWI offenses for both groups. Evaluators were unable to find any significant relationship between factors, e.g. age, employment and the group they were in for predicting OWI recidivism after one year after their third OWI.



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The predictors for two years post OWI 3rd was the participant's age at the time of OWI 3rd and education. A high school graduate was  $\frac{3}{4}$  less likely to recidivate and for every year of age there was a six percent decline in the probability of recidivating. The evaluation did not specify what age the decline started (Hiller et al. 71-74).

The evaluation concluded that the WATC adhered to the *10 Key Components* and the program was well run. The evaluation listed their strengths and their few weaknesses and recommended that an economic analysis be conducted (Hiller et al. 90).

## DISCUSSION

The creation of DUI courts started over twenty years ago, and there are now over 700 DUI courts in the United States (NCDC). The continued growth of DUI courts depends on whether they persist in accomplishing their goals, and this is determined by a program evaluation. At the present time, there is not any standardized evaluation format or system for evaluating DUI courts. This makes comparisons difficult, and to the uncaring reader, it is easy to praise some and condemn others without justification.

With the exception of evaluations of multiple courts using the same instrument and process as was done in the Georgia evaluations, the evaluations I have reviewed show an alarming amount of disparity in the process and definitions used to evaluate and ultimately label programs as successful or unsuccessful. The number of DUI courts is growing and the evaluation of these courts is becoming increasingly more important for funding and policy decisions. Numerous reports indicate these courts are successful at reducing recidivism. However, examinations of the truth behind these reports and

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critical reviews of the evaluation process and definition of success are important to truly define each court as successful.

A careful review of numerous evaluations from around the country have identified the need for uniform procedures and definitions. Past evaluations attach different definitions to the same words and some fail entirely to clearly define them. They also use different time measurements and control groups. The standardization of the evaluation process will help determine if DUI court participants are truly benefiting from the program. Courts tout their success, but without a standard evaluation process it is difficult to make comparisons. Additionally, a lack of a standardization allows DUI courts to fit the evidence to their own needs primarily for funding purposes (O'Keefe).

### Strengths

The use of risk assessments in the La Crosse OWI court was an obvious strength, as it was used to assist in determining what individuals the OWI court should enroll. The La Crosse OWI court used a proprietary standardized evaluation called the COMPAS to assess for risks and needs of individuals. The court evaluated recidivism for each risk level of the participants. Evaluations need to look at who enters the DUI courts, which should be moderate to high risk participants and not low risk. The inclusion of low risk participants can make the overall results for graduation and recidivism appear more efficacious because low risk individuals do not need the intensive treatment a DUI court provides and they are more likely to succeed. Additionally the inclusion of low risk individuals means there is less room for individuals from the medium to high risk groups to participate in the DUI court.

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A common strength of the evaluations, though varied among the seven DUI courts, was the inclusion of participants' demographics. The general characteristics were age, sex, race/ethnicity (Cissner 7), marital status, high school education, employment status, blood alcohol content (Hiller 36), substance abuse assessment results, prior treatment, average years of education (Fell 25), occupational status (labor, clerical, service, professional), employment status before sentencing, English reading level, primary language (Jones 14), and insurance coverage (Conley). The more DUI court participants' demographics included in the evaluations allows for easier determination of whether a single characteristic or combination of characteristic affect recidivism.

A strength of the RCDWI evaluation clearly described how they conducted their process and outcome evaluations. Additionally the evaluation clearly stated the questions that were going to be answered in the evaluation at the beginning of the outcome evaluation.

The second strength of the RCDWI evaluation was it broke down the type of arrests at two years after program entry for drugs, DUI, property, misdemeanor, gross misdemeanor, felonies, and other arrests prior to entering the DUI court as it pertained to graduates and non-graduates. This use of the arrests permits the court to determine if they were indicators for graduating or not graduating from the DUI court (Zil et al. 58).

The inclusion of a limitation statement strengthens an evaluation. The limitations statement adds credibility to an evaluation as it informs readers that the evaluators recognize where there can be concerns about the court evaluation content.

### Weaknesses

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The evaluation for the Butte-Silver Bow DUI court was the weakest evaluation because their only measure of success was the number of DUI court participants that graduated. Dr. Jones, who conducted the evaluation, recognized the court needed to make an outcome evaluation a priority (Jones 9). The data collection in the program was weak as they failed to track all information about treatment for participants. This is the fourth evaluation since January 2011, yet this court has not determined the recidivism of court participants while they were court participants and after graduation. Their use of the *DUI Court Model Compliance* as part of the evaluation was basically a checklist. The court needs to expand the information they collect, which will allow the court to be able to use different variables in analyzing the outcomes beyond that they completed the DUI court. As the evaluation is now done, it contains very little useful information that can be used to reduce recidivism.

A weakness the Butte-Silver Bow, Maricopa, Erie-Niagara, and Georgia evaluations was the failure to conduct risk assessments of individuals before they began the DUI court, which then allows individuals who are low risk to participate in the DUI court. The participants in the low risk group are the most likely to succeed in a DUI court with limited services and they do not need to participate in a DUI court. In Lowenkamp's study (as cited in Myer and Makarios 58) the author noted that "(M)oderate and high risk individuals should be the focus of structured interventions like OWI Court, as they are the group that has the most anti-social characteristics in need of change." WATC did alcohol assessments that reported the results as alcohol dependent, suspect or in

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remission. The evaluation stated the assessment was available when an individual applied to WATC but there was not a discussion of how it was used (Hiller et al. 61).

The Maricopa DUI court evaluation was weakened by the judge making the final decision on who participated in the DUI court when the evaluation said the participants were randomly selected. We cannot know what the judge's criteria was for selecting participants or what biases the judge may have had as this is not random selection as the evaluation stated.

The biggest issue facing evaluations is how they determined if they were a successful DUI court. One of the definitions of success was dependent on a participant's recidivism. This leads to a need for standardized evaluations using agreed upon terminology in a DUI court evaluation. The literature reviewed showed that use of the word recidivism raises issues for an evaluation. The term recidivism was defined by each DUI court, but the definitions varied among the seven courts with the Maricopa DUI court having 6 various definitions.

A weakness of an evaluation is when DUI courts have an evaluation that combines more than one DUI court together such as the three Georgia DUI courts (Fell). The combined evaluations of the three courts fails to recognize they can have different outcomes even if the courts are in close proximity because they may not have the same demographics or treatment methods. The combined evaluation of the three courts can hide one court's success while at the same time hide another's court's failure.

### Recommendations for Improving DUI Court Evaluations

The following are my recommendations for improving DUI court evaluations.

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The DUI court must clearly define the terms that are used in the evaluation and explain why they are using those definitions. The definition of the term recidivism is the term that needs the same definition in all evaluations. The term has been defined as a rearrest, rearrested combining new OWIs, OARs and other criminal offenses or any new illegal activity and conviction to list a few definitions of recidivism.

My recommendation for the definition of the term recidivism is any criminal conviction for a crime. That can be further broken down into a subset to include alcohol or non-alcohol crime. I would not use rearrest as I believe that information may not be accurate as a conviction and the reason for the arrest may not be what the prosecutor charges. Additionally, it could be difficult to obtain arrest records from the state of the DUI court or other states. If the charge is reduced to a non-criminal charge, I would use the original criminal charge. If a non-criminal alcohol related vehicle conviction arises from a refusal to take a breath test or a blood alcohol concentration then that would be considered a conviction. I use any conviction instead of any alcohol conviction as the goal of DUI court is more than having them stop drunk driving but also to change their overall criminal behavior and thinking.

My second recommendation is to set the time when to start tallying acts of recidivism for the evaluation as the time an individual begins DUI court. The WATC stated that all DUI participants were released from jail pending beginning DUI court, thus WATC started counting recidivism acts from the time they were arrested (Hiller et al 38). I recommend that the time they begin DUI court as the time when an offense can be considered recidivism.

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My third recommendation is the DUI court evaluation must clearly describe what information they want to ascertain from the evaluation and they should start with questions the evaluation will answer. The RCDWI evaluation clearly stated the questions they were going to use in their evaluation and I have included those that I determined are the most important questions.

1a. Does participation in DWI court reduce the average number of all rearrests and DWI rearrests for those individuals compared with traditional court processing?

1b. Does participation in DWI court lead to a lower overall recidivism rate (the percent of participants who were rearrested) compared with traditional court?

1c. Are non-DWI court offenders (DWI offenders who go through the traditional court process) more likely to get a new DWI charge sooner than DWI court participants?

4. What participant and program characteristics predict successful DWI court outcomes? What predicts non-completion (termination or unsuccessful exit from the DWI court program)?  
(Zil et al. 35-36)

These four questions are good questions to begin an evaluation for DUI court. I would modify question number 1 from the RCDWI evaluation to clarify it by adding “What participant and program characteristics may be predictors of recidivism?” The characteristics that are outlined above in the strength paragraph (e.g. sex, marital status, risk level, education, employment) should be included when answering question number four in an evaluation. The characteristics of a DUI court participant can be helpful in determining why a participant does or does not graduate or why an individual recidivates. If one or more characteristics is shown to be a factor that affects the participant, then the

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DUI court has the opportunity to address those factors to reduce DUI court dropouts and/or reduce recidivism.

My third recommendation is that each evaluation must continue to determine the recidivism of those who entered a DUI court regardless if they graduated or did not graduate when a subsequent evaluation is done. The continual measure of recidivism can provide valuable information as to the long term effect of the DUI court.

My fourth recommendation is a glossary of abbreviations and terms used in the evaluation should be included so it would be easy to locate the definition of any terms. There were not any glossaries in any of the evaluations reviewed, and this led to confusion as to what a term or abbreviation meant.

My fifth recommendation is the inclusion of a limitation statement which will strengthen an evaluation. The limitations statement will add credibility to an evaluation as it informs readers that the evaluators recognize where there can be concerns about the court evaluation.

My sixth recommendation is for all DUI courts contemplating doing a DUI evaluation is read NCDC's "Introductory Handbook for DWI Court Program Evaluations" to assist with their DWI court evaluations. It was written by Dr. Douglas Marlowe Phd who has conducted numerous DUI court studies and this handbook will be a valuable reference for all courts conducting a DUI evaluation be it their first or fifth evaluation.



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### Recommendations for Development of a Standardized Evaluation.

I propose that the following steps be taken to develop a standardized evaluation process of DUI courts.

1. I propose the National Center for DWI Courts (NCDC) take the initiative to develop national DUI court evaluation standards. NCDC is an organization that is familiar with DUI courts in the United States and has published an Introductory Handbook for DWI Court Program Evaluations and the DWI Court Checklist, and thus has experience in evaluations. They have presented programs on developing DUI courts and have established trust with many DUI teams and programs.
2. The NCDC would then contact individuals and companies that have performed evaluations to develop a plan for standardizing evaluations. I suggest two individuals that should be encouraged to participate; Dr. Douglas Marlowe and Dr. Frank A. Sloan, both of whom have authored numerous articles on drunken driving .
3. NCDC and other interested groups and individuals will develop a draft of a standardized evaluation that can be used as a starting point for the discussion of standardized evaluations.
4. NCDC, individuals, and organizations would contact state court systems that have developed statewide DUI court requirements including Nebraska and Georgia and work with them to review the standardized evaluation draft and outcome evaluation. The reason these states should be included early on in the process is they already recognize the importance of standardized requirements. NCDC will also select or ask for volunteers

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from DUI Courts to organize groups to promote standardized evaluations in their state with information provided by NCDC.

5. A standardized evaluation would include questions about the participants demographics and include definitions in the standardized evaluation. The DUI court can add an additional section for evaluation questions they want answered that are not in the standardized evaluation. This will allow DUI courts to conduct evaluation questions beyond the standardized evaluation and this could possibly eliminate objections to a standardized evaluation.

## **LIMITATIONS OF THE RESEARCH**

The basic limitation was the lack of DUI court evaluations that were available online. I conducted various searches of online sources including the University of Alaska–Fairbanks and the University of Wisconsin–Madison library systems to locate DUI court evaluations. I reviewed several meta-analyses that discussed evaluations of DUI courts without naming them, but I was unable to approach the number of evaluations that were used in the meta-analyses. Despite this, I was able to locate seven evaluations performed by seven different persons or groups.

## **RECOMMENDED FUTURE RESEARCH**

Additional research is needed to determine why DUI courts currently ask the questions they do in evaluations. If we know why DUI courts ask those questions, it could be an additional starting point for what should be in a standardized evaluation. This

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is a step towards standardization of DUI court evaluations. Research is needed to determine what prevents DUI courts from working towards using standardized evaluations. If we can determine why DUI courts that are currently performing evaluations may be reluctant to use a national standardized format, we can work towards resolving their concerns.

## **CONCLUSION**

The time for standardized DUI courts evaluations is now as we need to be able to make an accurate and extensive comparison of all the DUI courts. We need to eliminate evaluations that cannot be compared to other DUI courts because of a difference in key terms definitions such as recidivism and evaluation methods that do not address the same questions. If we can make valid comparisons, then we can review the most effective DUI courts to determine why they are successful and share that information with all DUI courts. The better the DUI courts become, the more they can reduce repeat drunk drivers and reduce cost, injuries, and deaths associated with them.

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